

## REMARKS

Claims 1-53 are pending in the case. The Office Action dated October 24, 2007 (the “October 24<sup>th</sup> Office Action”). The treatment of the claims in the “Office Action Summary” is inconsistent with their treatment in the “Detailed Action”:

- In the “Office Action Summary”, claims 1, 14, 20, 38, and 46 were listed as rejected, and claims 2-13, 15-19, 21-37, 39-45, and 47-53 were indicated as having been objected to. (October 24<sup>th</sup> Office Action, “Office Action Summary,” ¶¶6-7)
- In the “Detailed Action”, the Office rejected claims 1, 5, 14, 20, 38, and 46 as indefinite under 35 U.S.C. §112, ¶2. (October 24<sup>th</sup> Office Action, “Detailed Action,” p. 2, ¶4; p. 3, ¶5) Claims 3-13, 15-19, 21-37, 39-35, and 47-53 were objected to “because of deficiencies from [*sic*] their rejected parent claims.” (October 24<sup>th</sup> Office Action, “Detailed Action,” p. 4, ¶6) Additionally, the Office stated that it maintained an earlier rejection of claims 1-2 under 35 U.S.C. §112, ¶2. (October 24<sup>th</sup> Office Action, “Detailed Action,” p. 2, ¶3)

Since the “Office Action Summary” lacks sufficient specificity to support any *prima facie* rejections, Applicants presume the treatment of the claims in the “Detailed Action” is correct, and proceed accordingly in this appeal.

The claims are also subject to their second restriction in the October 24<sup>th</sup> Office Action. The first restriction requirement was set forth in the Office Action dated May 4, 2007 (the “May 4<sup>th</sup> Office Action”) and has neither been made final nor withdrawn. However, no claim has yet been withdrawn from consideration as of yet.

### **I. CLAIM REJECTIONS ARE ON APPEAL**

Applicants file herewith a Notice of Appeal and Appeal Brief in which the claim rejections are appealed. Applicants hereby incorporate by reference the arguments set forth therein against the rejections. In summary, the Office failed to apply the proper legal analysis or even the correct legal standard, and so failed to establish *prima facie* indefiniteness for even a single claim. And if one actually employs the correct legal analysis under the correct legal standard, it is clear that all the claims are indeed definite. Breadth is not indefiniteness, and

claims are not required to state an intended use in the preambles. The antecedent bases are present. And the disclosure is sufficiently detailed so that those of ordinary skill in the art can readily ascertain the scope of any limitation in the claims.

## **II. RESPONSE TO RESTRICTION REQUIREMENT**

### **A. ELECTION, WITH TRAVERSE**

For purposes of restriction, the Office grouped the claims as follows:

- Group I—claims 1-19, directed to a method for controlling the stability of a vehicle;
- Group II—claims 20-45 directed to a method and apparatus for controlling a vehicle's stability; and
- Group III—claims 46-53 directed to a vehicle having a sensors and a controller to control a vehicle's stability.

In response to the restriction requirement which the Examiner imposed, *Applicants elect, with traverse, to prosecute claims 1-19, i.e., the Group I claims*. Because Applicants have elected one of the groups and one of the species as defined by the Office and identified the claims therein, this paper is fully responsive to the restriction requirement.

### **B. THE TRAVERSAL**

Applicants traverse the restriction on two grounds, namely:

- there is no serious burden absent restriction; and
- the groups are so thoroughly linked there is no need for restriction.

Applicants address each of these grounds in turn.

#### **1. There is No “Serious Burden” Absent Restriction**

Applicants traverse the restriction because there is no burden present in the case absent restriction that would removed by restriction. According to Office policy regarding restriction, “[i]f the search and examination of all the claims in an application can be made without serious

burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.” M.P.E.P. §803.

As is established below, all the independent claims are linked, and so must be examined together. M.P.E.P. §809. There are other numerous linking claims among the dependent claims, as well. By the time all the linking claims are all examined with the elected claims, their will be little examination left. There consequently would be no “serious burden” caused by a lack of restriction if Office policy is correctly followed given that most of the burden will be borne even if the restriction is imposed.

Applicants respectfully submit that ***all three groups are linked***. In the table set forth immediately below, Group I, represented by claim 1, is linked to Group II, represented by claim 20, demonstrates that Groups I and II are clearly linked. The difference between claim 1 and claim 20 is that claim 1 is generic to claim 20, claim 20 specifying that (1) the one “dynamic property” of claim 1 is, in claim 20, the load on the wheel assemblies, and (2) the “manipulation” of claim 1 affects the vehicle’s center of gravity in claim 20.

1. (Original) A method of controlling stability of a vehicle having an articulated suspension, comprising:  determining at least one dynamic property of the vehicle; and  manipulating the articulated suspension based on the at least one dynamic property to affect the stability of the vehicle.	20. (Currently Amended) A method of controlling stability of a vehicle having an articulated suspension, comprising:  determining a load on each of a plurality of wheel assemblies of the articulated suspension; and  manipulating at least one component of the vehicle to affect a center of gravity of the vehicle or the vehicle's stability limits.
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The following table also establishes that Group II, represented by claim 38, and Group III, represented by claim 46, are also linked.

38. (Currently Amended) A system for controlling stability of a vehicle having an articulated suspension, comprising:	46. (Currently Amended) A vehicle, comprising:  a chassis;
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<p><i>a plurality of sensors for sensing a state of the vehicle; and</i></p> <p><i>a controller coupled with the plurality of sensors and adapted to articulate at least one component of the vehicle to affect the vehicle's center of gravity or the vehicle's stability limits.</i></p>	<p>at least one component articulable with respect to the chassis;</p> <p><i>a plurality of sensors for sensing a state of the vehicle; and</i></p> <p><i>a controller coupled with the plurality of sensors and adapted to articulate the at least one articulable component to affect the vehicle's center of gravity or the vehicle's stability limits.</i></p>
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Applicants note that there are numerous links among the dependent claims, as well. If the linking claims are allowed, the rest of their Groups must be rejoined for examination. M.P.E.P. §809. Accordingly, the restriction is improvident since most of the burden in examination will borne anyway if Office policy is correctly followed. M.P.E.P. §803.

## **2. The Claims are Improperly Grouped**

Applicants challenge the grouping of the claims. More particularly, Applicants respectfully submit that claims 38-45, in Group II, should more properly grouped with claims 46-53 of Group III. Claims 20, 38, and 46 are set out side-by-side below for the convenience of the Office to facilitate the review. The emphasis shows the common limitations among the claims. As one can see, there are no common limitations between claims 20 and 38, but there are substantial common limitations between claims 38 and 46.

Group II	Group II	Group III
<p>20. (Currently Amended) <i>A method of controlling stability of a vehicle having an articulated suspension</i>, comprising:</p> <p>determining a load on each of a plurality of wheel assemblies of the articulated suspension; and</p>	<p>38. (Currently Amended) <i>A system for controlling stability of a vehicle having an articulated suspension</i>, comprising:</p>	<p>46. (Currently Amended) A vehicle, comprising:</p> <p>a chassis;</p>

manipulating at least one component of the vehicle to affect a center of gravity of the vehicle or the vehicle's stability limits.	<p><i>a plurality of sensors for sensing a state of the vehicle; and</i></p> <p><i>a controller coupled with the plurality of sensors and adapted to articulate at least one component of the vehicle to affect the vehicle's center of gravity or the vehicle's stability limits.</i></p>	<p>at least one component articulable with respect to the chassis;</p> <p><i>a plurality of sensors for sensing a state of the vehicle; and</i></p> <p><i>a controller coupled with the plurality of sensors and adapted to articulate the at least one articulable component to affect the vehicle's center of gravity or the vehicle's stability limits.</i></p>
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Applicants also challenge the groupings in that Groups I and II should be merged into the same group. The difference between claim 1 and claim 20 is that claim 1 is generic to claim 20, claim 20 specifying that (1) the one “dynamic property” of claim 1 is, in claim 20, the load on the wheel assemblies, and (2) the “manipulation” of claim 1 affects the vehicle’s center of gravity in claim 20. Accordingly, Applicants respectfully submit that Groups I and II should be merged.

<p>1. (Original) A method of controlling stability of a vehicle having an articulated suspension, comprising:</p> <p>determining at least one dynamic property of the vehicle; and</p> <p>manipulating the articulated suspension based on the at least one dynamic property to affect the stability of the vehicle.</p>	<p>20. (Currently Amended) A method of controlling stability of a vehicle having an articulated suspension, comprising:</p> <p>determining a load on each of a plurality of wheel assemblies of the articulated suspension; and</p> <p>manipulating at least one component of the vehicle to affect a center of gravity of the vehicle or the vehicle's stability limits.</p>
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#### **IV. CONCLUDING REMARKS**

Applicants respectfully submit that all claims are in condition for allowance. This includes the independent linking claims, meaning the unelected groups must be rejoined and allowed.

The Examiner is invited to contact the undersigned attorney at (713) 934-4053 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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